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25 Agua Caliente Band of Cahuilla Indians

26 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

27 **COUNTY OF SACRAMENTO**

28 FAIR POLITICAL PRACTICES)
COMMISSION, a state agency,)

Plaintiff,)

vs.)

AGUA CALIENTE BAND OF)
CAHUILLA INDIANS, a federally-)
recognized Indian tribe; and DOES)
I-XX,)

Defendants.)

Civil case no. 02AS04545

DECLARATION OF MAX ROSS IN
SUPPORT OF MOTION OF SPECIALLY-
APPEARING DEFENDANT AGUA
CALIENTE BAND OF CAHUILLA
INDIANS TO QUASH SERVICE FOR
LACK OF PERSONAL JURISDICTION

[C.C.P. §418.10]

Hearing: January 8, 2003
2:00 p.m.
Dept. 53
Honorable Loren E. McMaster

1 Max Ross Declares as follows

2 1. My name is Max Ross. I give this declaration in support of the motion to quash
3 of the Agua Caliente Band of Cahuilla Indians ("the Tribe"), as a specially-appearing defendant
4 in the litigation entitled *Fair Political Practices Commission v. Agua Caliente Band of Cahuilla*
5 *Indians*, Sacramento County Superior Court No. 02AS04545.

7 2. I am now employed by the Tribe as its Chief Financial Officer. I have held that
8 position since December, 1998. I am a certified public accountant by profession, although not
9 licensed by the State of California. In my position as Chief Financial Officer, I manage and
10 supervise the Tribe's accounting department in the Tribe's Tribal office, which is located at 600
11 East Tahquitz Canyon Way, Palm Springs, California. I am informed that the Tribal Office is
12 located on the lands of the Agua Caliente Indian Reservation. The accounting department
13 handles and accounts for the receipt of all Tribal funds and makes all Tribal disbursements from
14 those funds, through accounts maintained by the Tribe through me and my staff at this location.

16 3. As Chief Financial Officer, I am also familiar with the governance of the Tribe,
17 including its structure and its decision-making processes, as described in this declaration.

18 4. The Tribe is governed by a five-member Tribal Council, consisting of the
19 Chairman, Vice-Chairman, Secretary/Treasurer, and two other Councilmembers. The Tribal
20 Council is elected by members of the Tribe from its membership. The Tribal Council has the
21 duties and responsibilities specified in the Tribe's Constitution and bylaws, and is generally
22 responsible for the conduct of all the Tribe's affairs.

24 5. The Tribal Council generally meets weekly. Its meetings are held in a meeting
25 room at the Tribe's Tribal Office. The meetings are generally open to members of the Tribe.

26 6. At its meetings, the Tribal Council from time to time considers making financial
27 contributions to candidates, ballot propositions, and perhaps others. Proposals for such
28

1 contributions are discussed by the Tribal Council, and voted on. Political contributions are made
2 only if approved by a majority vote of the Tribal Council. The Tribal Council approved all
3 political contributions that the Tribe made since my employment began in December of 1998 and
4

5 I am informed that, prior to my arrival in December of 1998, the
6

7 7. All steps to make the contributions authorized by the Tribal Council take place at
8 the Tribal Office.

9 8. When the Tribal Council votes to make a contribution, the resolution and vote are
10 recorded in the minutes of the meeting, which are kept by the Tribal secretary. Following the
11 meeting, the secretary prepares and delivers a memorandum to the accounting department noting
12 that the contribution has been authorized, with a copy of the minutes approving the contribution.
13

14 9. Staff members in the accounting department then prepare the appropriate check
15 for the contribution, drawn on the Tribe's checking account. The check, with the secretary's
16 memorandum and the minutes, are then delivered to me for signature. I sign all such checks,
17 along with the Tribe's controller, Gary Norris.
18

19 10. After Mr. Norris and I have signed checks for political contributions, they are
20 generally mailed by my staff to the recipient, along with a cover letter prepared by my staff. The
21 mail is either picked up at the Tribal Office by the federal postal carrier, or my staff takes it to
22 the post office branch that serves the Tribe, which is located about 3 blocks away, also within the
23 boundaries of the Agua Caliente Indian Reservation.

24 11 Similarly, the Tribal Council makes all decisions and actions regarding the
25 Tribe's lobbying activities in its meetings at the Tribal Office.
26

27 12 From time to time the Tribal Council has engaged one or more lobbying firms to
28 represent the Tribe's interests with the California state government. Such decisions to engage a

1 firm are made by the Tribal Council at its meetings at the Tribal Office. Those firms regularly
2 give reports to the Tribal Council on the status of legislative and other governmental matters of
3 concern to the Tribe.
4

5 13. The Tribal Council regularly reviews and discusses the reports from its lobbyists
6 at its meetings at the Tribal office. At those meetings, the Tribal Council makes decisions on
7 recommendations from its lobbyists concerning legislative issues, including supporting or
8 opposing legislative measures of concern to the Tribe.

9 14. All steps to pay for lobbying activities are taken at the Tribal Office, which is
10 located as noted above. The Tribe receives invoices each month at the Tribal Office from the
11 lobbyist firms it has engaged to represent it. Those invoices come to the accounting department.
12

13 15. The staff in the accounting department prepares checks in payment of the invoices
14 from the lobbying firms, and delivers the checks and appropriate documentation to me for
15 signature by me and by the controller.

16 16. After the checks have been signed, the staff in the accounting department puts
17 each in an envelope for mailing to the payee. The mail is either picked up at the Tribal Office by
18 the postal carrier or is taken by my staff to the post office which is also located nearby on the
19 Agua Caliente Indian Reservation..
20

21 7. declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct to the best of my knowledge, information, and belief. Executed at
23 the Agua Caliente Indian Reservation, Palm Springs, California, on December 19, 2002.
24

25
26
27
28

MAX ROSS